



MAR 22 1989

CERTIFIED MAIL--P545 548 509
RETURN RECEIPT REQUESTED

William Warren, Esq.
 Cohen, Shapiro, Polisher et al
 Princeton Pike Corporate Center
 997 Lenox Drive - Building 3
 Lawrenceville, New Jersey 08648

Re: Scientific Chemical Processing ("SCP") Site - Carlstadt, N.J.
Administrative Order Index No. II CERCLA-50114 ("the Order")

Dear Mr. Warren:

This is in response to your letter dated March 9, 1988 concerning ARARs for the above-referenced SCP Site. I feel compelled to respond to your letter given the fact that it is premised upon some erroneous perceptions of the role of responsible parties in selecting ARARs at NPL Sites. Your letter also makes some assertions and/or implications which are clearly inaccurate given the fact that EPA personnel have spent literally hundreds of hours on the phone and at meetings with you and/or Respondents and their contractors over the last year and a half to assist Respondents in performing their commitments related to this Site.

Specifically, your letter alleges that the Respondents have "...been attempting to secure a meeting with the Agency to discuss ARARs" ever since July 27, 1988 and that the Agency has, in effect, been unavailable to discuss ARARs with the Respondents. I categorically reject this view.

I note that in November 1988, it was EPA that suggested, in fact, insisted that Respondents' Facility Coordinator and contractors meet with EPA on a bi-weekly basis until the Feasibility Study ("FS") was completed for the Site. Since that time, EPA personnel have met with PRP representatives numerous times; each of these meetings had an open agenda which allowed any person present to raise any issue they wished to discuss. The Facility Coordinator never initiated any discussions of ARARs at the meetings, though these meetings were the proper forum for such discussions and though the Facility Coordinator is the representative designated in the Order to "confer with EPA" concerning the RI/FS activities for the Site. (See Order, para. 29.B.)

~~At the most recent of these meetings, on Monday, March 6, 1989, EPA, on its own initiative, raised the issue of ARARs and discussed our view concerning some of the primary groundwater~~

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ARARs and soil cleanup objectives which were to be used for the FS at the Site. EPA also answered questions posed by Respondents' contractor. The Facility Coordinator and an attorney from your office were present at this meeting (as was the case at all prior meetings of this type since November 1988). The Facility Coordinator has never indicated at any meetings of this type, nor has Respondents' contractor, that ARAR issues were an impediment to completion of the FS for the Site.

Your letter states that the Agency "never had an opportunity to review the Carlstadt Committee's ARARs proposal" or to discuss the proposal before September 19, 1988. We agree. The Committee never provided EPA with any ARAR proposal before it was published as a fait accompli in the second draft RI in September 1988, without the Agency's prior knowledge or consent. The Agency was not even aware that the Committee had an ARAR proposal before that date. However the "proposal", as it is referred to in your letter, merely consists of the three chapters of the second draft RI, which constitute a rejection of, among other items, the EPA position that State groundwater quality standards and federal MCLs are cleanup targets for groundwater under the Site. It does not include nor did it even try to justify any alternative cleanup level(s) to those set forth by EPA.

Your letter states that you wish to assure your clients that EPA considered the "position of the Carlstadt Committee" concerning ARARs. To date, we have not been informed as to what the Committee position is, if any, with regard to ARARs at the SCP Site, (other than the rejectionist view expressed in the second Draft RI, which failed to provide any alternative cleanup targets for the Site).

Your letter states that your Committee is "...attempting to understand the Agency's position" with respect to ARARs. As you are aware, it is EPA's responsibility to identify and select ARARs for cleanups at NPL sites. We provided your office with a listing and discussion of ARARs and TBCs in July 1988. We reiterated and clarified our views on ARARs in our letters to you dated September 15, 1988, and the Facility Coordinator, dated February 13, 1989 and March 3, 1989. The Agency views on ARARs for the Site are stated in those documents, in the statutes and regulations referred to therein, in the existing and proposed NCP and in the CERCLA Compliance With Other Laws Manual (May 1988), which you already possess.

We are more than willing to listen to any views Respondents may have on this matter. However, the Agency has never received any "inquiries" in writing from the Respondents concerning how the ARARs and TBCs which EPA identified in July 1988 are to be used at the SCP Site, nor has it received any alternative cleanup levels from the Respondents.

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We recently released additional ARARs documents to you (by letter from the Office of Regional Counsel dated March 16, 1989) and we have also agreed to meet with you at EPA-Edison on March 23, 1989 to discuss ARARs or any other matters you may wish to discuss concerning the Site.

In sum, EPA has expended an inordinate amount of time and effort in meeting with, working with and being accessible to Respondents and their contractors for this Site. We have been willing to incur this drain on our own limited resources because of the urgency posed by conditions at this Site. Therefore, to indicate, as you have in your letter, that EPA has been inaccessible to discuss any issues relating to this Site is incomprehensible.

I trust we can continue to work together to clean up this Site as soon as possible. As was agreed upon, we expect to receive a Preliminary FS on or before April 1, 1989 for the Site.

Sincerely yours,

Raymond Basso, Chief
New Jersey Compliance Branch

cc: Walter Mugdan, EPA-Region II
Delmar Karlen, Jr., EPA-Region-II
Thomas Armstrong, General Electric
H. Gilbert Weil, Facility Coordinator
Pamela Lange, NJDEP

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